Senate Bill No. 1228

Passed the Senate August 31, 2012

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Secretary of the Senate

Passed the Assembly August 30, 2012

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2012, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1250 of, and to add and repeal Article 7.2 (commencing with Section 1323.5) of Chapter 2 of Division 2 of, the Health and Safety Code, relating to small house skilled nursing facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, Alquist. Small house skilled nursing facilities.

Existing law provides for the licensure and regulation of health facilities, including skilled nursing facilities, as defined, by the State Department of Public Health. Violation of these provisions is a crime.

This bill, until January 1, 2020, would establish the Small House Skilled Nursing Facilities Pilot Program within the department for the purposes of providing skilled nursing care in a homelike, noninstitutional setting. The bill would require that pilot facilities, as defined, meet specified requirements and pay specified fees. The bill would require the department to submit a report to the Legislature on the results of the pilot program at least 24 months prior to the termination of the pilot program.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 1250 of the Health and Safety Code, proposed by SB 135 to be operative only if SB 135, and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital. The general acute care hospital operated by the State Department of Developmental Services at Agnews Developmental Center may, until June 30, 2007, provide surgery and anesthesia services through a contract or agreement with another acute care hospital. Notwithstanding the requirements of this subdivision, a general acute care hospital operated by the Department of Corrections and Rehabilitation or the Department of Veterans Affairs may provide surgery and anesthesia services during normal weekday working hours, and not provide these services during other hours of the weekday or on weekends or holidays, if the

general acute care hospital otherwise meets the requirements of this section.

A "general acute care hospital" includes a "rural general acute care hospital." However, a "rural general acute care hospital" shall not be required by the department to provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) (1) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(2) "Skilled nursing facility" includes a "small house skilled nursing facility (SHSNF)," as defined in Section 1323.5.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with

developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled-nursing" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than 12 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A "life-threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons, or located in a county of the 16th class pursuant to Section 28020 of the Government Code, may have not more than 25 beds for the purpose of serving persons who are terminally ill.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving persons who are catastrophically and severely disabled.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections and Rehabilitation, the

Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(*l*) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(m) "Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)" means a homelike facility with a capacity of four to eight, inclusive, beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have continuous needs for skilled nursing care and have been certified by a physician and surgeon as warranting continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated. ICF/DD-CN facilities shall be subject to licensure under this chapter upon adoption of licensing regulations in accordance with Section 1275.3. A facility providing continuous skilled nursing services to persons with developmental disabilities pursuant to Section 14132.20 or 14495.10 of the Welfare and Institutions Code shall apply for licensure under this subdivision within 90 days after the regulations become effective, and may continue to operate pursuant to those sections until its licensure application is either approved or denied.

SEC. 1.5. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic

services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital. The general acute care hospital operated by the State Department of Developmental Services at Agnews Developmental Center may, until June 30, 2007, provide surgery and anesthesia services through a contract or agreement with another acute care hospital. Notwithstanding the requirements of this subdivision, a general acute care hospital operated by the Department of Corrections and Rehabilitation or the Department of Veterans Affairs may provide surgery and anesthesia services during normal weekday working hours, and not provide these services during other hours of the weekday or on weekends or holidays, if the general acute care hospital otherwise meets the requirements of this section.

A "general acute care hospital" includes a "rural general acute care hospital." However, a "rural general acute care hospital" shall not be required by the department to provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) (1) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(2) "Skilled nursing facility" includes a "small house skilled nursing facility (SHSNF)," as defined in Section 1323.5.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled-nursing" means a facility with a capacity of 4 to 15 beds

that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than 12 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A "life-threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons, or located in a county of the 16th class pursuant to Section 28020 of the Government Code, may have not more than 25 beds for the purpose of serving persons who are terminally ill.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving persons who are catastrophically and severely disabled.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards who may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements

as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(*l*) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(m) "Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)" means a homelike facility with a capacity of four to eight, inclusive, beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have continuous needs for skilled nursing care and have been certified by a physician and surgeon as warranting continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental

disability if not treated. ICF/DD-CN facilities shall be subject to licensure under this chapter upon adoption of licensing regulations in accordance with Section 1275.3. A facility providing continuous skilled nursing services to persons with developmental disabilities pursuant to Section 14132.20 or 14495.10 of the Welfare and Institutions Code shall apply for licensure under this subdivision within 90 days after the regulations become effective, and may continue to operate pursuant to those sections until its licensure application is either approved or denied.

(n) "Hospice facility" means a facility with a capacity of no more than 24 beds that is licensed by the department and operated by a licensed and certified provider of hospice services. Hospice services include, but are not limited to, routine care, continuous care, inpatient respite care, general patient care, and the hospice facility services described in Section 1749.3.

SEC. 2. Article 7.2 (commencing with Section 1323.5) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 7.2. Small House Skilled Nursing Facilities

1323.5. (a) (1) The Small House Skilled Nursing Facilities Pilot Program (SHSNF PP) is hereby established within the department. The purpose of the pilot program is to allow the department to authorize the development and operation of up to 10 small house skilled nursing facilities that are licensed to provide skilled nursing care and supportive care to patients in small, homelike, residential settings that incorporate emerging patient-centered health care concepts. The long-range goal of the pilot program is to evaluate the models developed under the pilot program to determine if each model improves patient satisfaction and clinical outcomes in a cost-effective manner. The models developed shall also be eligible for certification for participation in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) as skilled nursing facilities or in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), as nursing facilities, or as both.

(2) For purposes of the pilot program, the department shall permit the formulation of standards for long-term care that may extend beyond, or vary from, traditional long-term health care

facility models, including, but not limited to, facility layout and design consistent with newly adopted revisions to the California Building Standards Code, nursing care levels, staffing levels, infection control, sanitation, dietary services, and other personal care and habilitation provisions that may be more flexible than those currently required in California for skilled nursing facilities and continuous nursing facilities.

(3) The department shall establish criteria to measure the benefits and successes of this type of long-term care facility, as a whole, and to compare the results achieved by each model variant. The department shall evaluate and analyze the emerging concepts in long-term skilled nursing care developed pursuant to the pilot program for purposes of considering future regulatory modification.

(b) Facilities that are eligible for participation in the pilot program shall have all of the following characteristics:

(1) To the extent permitted under federal law, each home shall consist of a homelike, rather than institutional, environment, including the following characteristics:

(A) The home shall be accessible to disabled persons, and shall be designed as a house, an apartment, or a distinct area within an existing skilled nursing facility that meets the standards described in paragraph (2) of subdivision (a) that is similar to housing available within the surrounding community, and that includes shared areas that would only be commonly shared in a private home or apartment.

(B) The home shall not, to the extent practicable, contain institutional features. These include, but are not limited to, nursing stations, medication carts, room numbers, and wall-mounted licenses or certificates that could appropriately be accessed through other means.

(C) (i) The home shall include resident rooms that accommodate not more than two residents per room. Facilities are encouraged to include private, single-occupancy bedrooms that are shared only at the request of a resident to accommodate a spouse, partner, family member, or friend, and that contain a full private and accessible bathroom.

(ii) Double-occupancy rooms shall contain a full private and accessible bathroom, and each resident’s bedroom area shall be visually separated from the other by a full height wall or a permanently installed sliding door, folding door, or partition. Walls,

doors, or partitions used to separate resident bedroom areas shall provide visual and acoustic separation. A door leading to each resident's bedroom area in addition to the corridor door is not required, unless needed to achieve visual or acoustic separation.

(iii) Each resident shall have direct use of, and access to, an exterior window at all times.

(D) The home shall contain a living area where residents and staff may socialize, dine, and prepare food together that provides, at a minimum, a living room seating area, and a dining area large enough to accommodate all residents and at least two staff members. The home shall contain a full kitchen open to the living and dining rooms that may be utilized by residents that shall provide for separation in accordance with the California Building Standards Code.

(E) The home shall contain ample natural light.

(F) The home shall have built-in safety features to allow all areas of the facility to be accessible to residents during the majority of the day and night.

(G) The home shall provide access to secured outdoor space.

(H) The home shall endeavor to create an aging-in-place environment where long-stay residents may form permanent homes with each other.

(I) The home shall prepare, cook, and serve meals on a daily basis for residents in the home. Nothing in this subparagraph shall prohibit a home from utilizing outside resources in a manner approved by the department.

(c) As used in this article, the following definitions apply:

(1) "Pilot facility" means a Small House Skilled Nursing Facility (SHSNF) participating in the Small House Skilled Nursing Facilities Pilot Program (SHSNF PP) established by this article.

(2) "Small house skilled nursing facility" (SHSNF) means a health facility that provides skilled nursing care and supportive care in a small, homelike, residential setting in an apartment, cottage, house, or similar residential unit, to patients whose primary need is for the availability of skilled nursing care on an extended basis. A SHSNF may consist of a group or cluster of such residential homes, each home having 12 or fewer beds, or a distinct area within an existing skilled nursing facility that otherwise meets the definition of a SHSNF, is physically separate and distinguishable from the remainder of the skilled nursing facility,

and has a distinct entry with no through traffic of staff, residents, or visitors not affiliated with the SHSNF. A SHSNF may also be a distinct part of a general acute care hospital or an acute psychiatric hospital, pursuant to subdivision (c) of Section 1418. Regardless of location, all SHSNFs shall meet all standards.

(3) "Home" means an apartment, cottage, house, or other similar residential unit that serves 12 or fewer residents.

(4) "Supportive care" includes the provision of socialization, activity aide services, and homemaker services.

(5) "Homemaker services" means food preparation, housekeeping, laundry, and maintenance services.

(6) "Versatile worker" means a certified nursing assistant who provides personal care, socialization, activity aide services, meal preparation services, and laundry and housekeeping services.

(d) Each pilot facility shall be subject to all licensing enforcement provisions to which other skilled nursing facilities are subject, including, but not limited to, Section 1424.5, Article 7.6 (commencing with Section 1324.20), and Article 8 (commencing with Section 1325).

(e) Unless otherwise operating on an existing skilled nursing facility license, each pilot facility shall be subject to the Licensing and Certification program fee for skilled nursing facilities pursuant to Section 1266.

(f) Each pilot facility shall receive a peer group weighted average Medi-Cal reimbursement rate as calculated by the State Department of Health Care Services.

(g) (1) Each pilot facility shall provide for consistent staff assignments and self-managed work teams of direct care staff, including staff working as versatile workers. Licensed nursing staff shall direct the versatile workers in all activities delegated under the licensed nurses' scope of practice. A versatile worker may be supervised by nonclinical staff when performing nonclinical duties, at the discretion of the facility.

(2) (A) The pilot facility shall provide training for all staff involved in the operation of the home, to be completed prior to initial operation of the home, concerning the philosophy, operations, and skills required to implement and maintain self-directed care, self-managed work teams, a noninstitutional approach to long-term care, safety and emergency skills, food handling and safety, and other elements necessary for the successful

operation of the home. Versatile workers and other staff interacting with residents in the homes shall demonstrate proficiency in these areas as well as the facility's policies and procedures, conflict resolution, and self-directed care principles.

(B) Replacement staff shall undergo the training described in subparagraph (A) within two weeks of commencing employment with the pilot facility.

(h) A facility may be licensed by the department as a pilot facility pursuant to this article if the facility meets both of the following requirements:

(1) The facility has been determined by the department to comply with all provisions necessary to be certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(2) The facility has been determined by the department and the Office of Statewide Health Planning and Development (OSHPD) to fully comply with all pilot program requirements required under the provisions of this article, including payment of the licensing fee for a skilled nursing facility pursuant to Section 1266.

(i) In developing standards for this pilot program, the department shall, together with OSHPD and the Office of the State Long-Term Care Ombudsman, consult long-term care providers, health care advocacy organizations, health care employee organizations, consumer advocates, elder care advocates, and others identified as having a vested interest in long-term health care.

(j) The department shall issue, by July 1, 2013, one or more all facilities letters that provide the standards to be used by providers accepted into the pilot program for the development and operation of all pilot facilities.

(k) The department shall have authority to waive any standard for skilled nursing facilities established elsewhere in this chapter, Chapter 2.4 (commencing with Section 1417), and any regulations adopted thereunder, if the health, safety, and quality of patient care is not adversely affected. Prior written approval communicating the terms and conditions under which the waiver is granted shall be required. Applicants shall request the waiver in writing, accompanied by detailed, supporting documentation.

(*l*) (1) Consistent with this article, the department shall invite all eligible providers to submit an application to participate in the SHSNF PP at specified intervals over the first two years of the pilot program. The applications shall include sufficient information to demonstrate the provider's experience in establishing and operating one or more care facilities offering the level of care to be furnished by pilot facilities, including the name and location of each facility currently or previously licensed to the provider, whether within California or in another state.

(2) The department may require that additional information and documents be submitted with, or subsequently in support of, the application. Failure to provide any required information or documentation shall disqualify the applicant from the application process and from consideration for participation in the pilot program. The department may select providers for participation in the SHSNF PP based on the applicant's ability to meet or exceed the criteria described in this article.

(m) If, at any time, a pilot facility fails to meet the criteria set forth in this article for being a pilot facility, or fails to safeguard patient health, safety, welfare, and security as determined by the department, the department shall remove that pilot facility from participation in the pilot program.

(n) The costs of the creation, administration, and evaluation of the pilot program shall be borne by the facilities participating in the pilot project.

(o) Each pilot facility shall provide any reports to the department that the department deems necessary for modifications to the pilot program, the guidance or regulations governing the pilot facilities, and any other information the pilot facilities deem relevant in evaluating the success of the pilot program in delivering improved patient care. The department may inspect any participating pilot facility at any time.

(p) The department shall prepare and submit a report to the Legislature on the results of the SHSNF PP. The department may prepare the evaluation, analysis, and report itself, or may do so under contract. The report shall be submitted to the Legislature at least 24 months prior to the termination of the pilot program, and shall include an evaluation of the pilot program's cost, safety, and quality of care.

(q) Nothing in this section or pilot program shall be construed to limit providers not participating in the pilot from pursuing approval for similar practices through program flexibility or similar existing process allowed by law.

1323.6. This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 1250 of the Health and Safety Code proposed by both this bill and Senate Bill 135. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 1250 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 135, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2012

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Governor